

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-SIXTH LEGISLATURE

OF THE

STATE OF MAINE,

1857.

Published by the Secretary of State, agreeably to Resolves of June 23, 1820, February 26, 1840,
and March 16, 1842.

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1857.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1857.

Chapter 55.

An act additional concerning the supreme judicial court and judicial proceedings.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

Justices of S. J. court, majority necessary to hear and determine questions of law, &c.

Concurrence of five judges necessary in capital cases.

Law terms, when holden.
Western district.

Middle district.

Eastern district.

Civil actions not entered within first ten days of term, how disposed of.

Demurrer, proceedings on, &c.

Treble costs, in certain cases.

Defense to file specifications of nature and grounds of defense, &c.

Certain cases to be marked for trial, &c.

SECT. 1. Not less than a majority of the justices of the supreme judicial court shall be competent to hear and determine questions of law and equity, and try indictments found for crimes, the punishment of which is death; and no case shall be determined, as aforesaid, without the concurrence of five; and on trial for indictments for capital crimes, not less than five must concur in any ruling or instruction.

They shall hold the law terms of said court at Portland, for the western district, on the second Tuesday of May; at Augusta, for the middle district, on the second Tuesday of June; at Bangor, for the eastern district, on the second Tuesday of July, of each year.

SECT. 2. Whenever a party, whose duty it shall be to enter any civil action in the law court, in any district, shall fail to enter the same within the first two days of the term in which the entry thereof should be made, the opposite party may thereafter, during the same term, enter a complaint, briefly setting forth the facts; and the court, on being satisfied of the truth of said complaint, may order judgment to be rendered in favor of such complainant, as in other cases decided by the law court; and if the case is on exceptions, the complainant shall recover treble costs from the time they were filed.

SECT. 3. Whenever a demurrer shall be filed and joined, the presiding justice shall rule thereon, and the ruling shall be final, unless the party aggrieved shall except to such ruling. The party demurring shall not, after the demurrer is joined, withdraw the same without leave of court, and the consent of the opposite party. If the law court shall deem any such exceptions frivolous, they shall impose treble costs on the party demurring, from the time of the filing of such demurrer.

SECT. 4. In all civil cases hereafter entered in said court, when the defendant appears, he shall, at least fourteen days before the next succeeding term, file with the clerk of the court a specification in brief of the nature and grounds of his defense, with a declaration signed by himself, or his attorney, that the declarant believes that there is a good defense to all or a part of the plaintiff's claim, and that he intends to make such defense. The clerk shall mark for trial on the docket, only cases in which specifications shall have been filed, as aforesaid, and the court shall dispose of all other cases.

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as justice may require. But the court may, in its discretion, allow such specification and declaration to be filed, and the case entered on the trial docket, after such time; and, also, may allow amendments to specifications. In all cases which shall be marked for trial, as aforesaid, if no issue shall be joined, or no actual trial had in any mode, and judgment be rendered for the plaintiff, the defendant shall be liable for treble costs, unless the presiding judge shall certify, or enter upon record, that the defendant had reasonable grounds for filing his said specifications and declaration, and that the same was not filed for the mere purpose of delay. Plaintiff may demur to said specifications of defense, and the demurrer shall be disposed of as in other cases.

Court may allow specifications, and amendments thereto, &c.

Defendant liable for treble costs.

Plaintiff may demur, &c.

SECT. 5. All acts and parts of acts, inconsistent with this act, are hereby repealed; and this act shall be in force from and after its approval by the governor.

Inconsistent acts repealed.

[Approved April 15, 1857.]

Chapter 56.

An act to promote the incorporation of towns in new settlements.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECT. 1. The inhabitants of unincorporated townships in the several counties in this state, shall be subject to become organized in the manner and for the purposes hereinafter provided.

Unincorporated townships subject to become organized.

SECT. 2. Such organizations shall be applied to those unincorporated townships having not less than three hundred inhabitants, to be ascertained in the manner hereinafter provided.

Organization, how applied.

SECT. 3. It shall be the duty of the county commissioners of the several counties in which such unincorporated townships may be situated, at their next session, or at a meeting called for that purpose, after this act shall take effect, to cause an enumeration to be made of the inhabitants upon such unincorporated places, so far as may be necessary to ascertain what townships shall then contain the number of inhabitants required for organization under this act, which enumeration shall be taken and a return thereof made to the county commissioners, on or before the first day of July next; and said county commissioners shall, once in five years thereafter, when there is no census of the United States taken within said five years, cause an enumeration of the inhabitants upon such unincorporated townships to be made, for the purposes aforesaid.

Enumeration of inhabitants, how made.